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In re Application of
SUZUKI et al.
Application No.: 10/571,013
PCT No.: PCT/JP05/12772
Int. Filing Date: 11 July 2005
Priority Date: 12 July 2004
Attorney's Docket No.: 09812.0140
For: ENCODING METHOD, ENCODING DEVICE,
DECODING METHOD, DECODING DEVICE AND
PROGRAM THEREOF

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DECISION ON
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PETITION
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UNDER 37 CFR 1.181
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This decision is on applicant's 15 April 2009 "Petition to Withdraw Holding of Abandonment" treated under 37 CFR 1.181 to request acceptance of a copy of the declaration in lieu of the original declaration filed United States Patent and Trademark Office (USPTO) on 08 March 2006. No petition fee is required.

BACKGROUND

On 08 March 2006, applicant filed a Transmittal Letter to the United States Designated/Elected Office (DO/EO/US) Concerning a Filing Under 35 U.S.C. 371 (Form PTO 1390) along with, *inter alia*, the basic national fee and an executed Japanese/English declaration (Form PTO/SB/105).

On 08 July 2008, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) & (b), was required.

On 23 February 2009, a Notification of Abandonment was mailed to applicant indicating that applicant had failed to respond to the Notification of Missing Requirements within the time period set therein.

On 15 April 2009, in response to the Notification of Abandonment, applicant filed the instant response with, *inter alia*, a copy of 08 March 2006 declaration, and a copy of an itemized USPTO date-stamped postcard indicating that these papers were filed on 08 March 2006.

DISCUSSION

The original declaration filed on 08 March 2006 is found in the application file. A review of the finance records for 10/571,013 indicates that the \$130 surcharge for filing the declaration after the thirty month period was not paid nor was it required as the declaration was filed prior to the expiration of the thirty month period.


A review of the declaration reveals that the declaration identifies the inventors, and states the citizenship, residency and mailing address of the inventors. Thus, the declaration is acceptable and the requirements of 37 CFR 1.497 are met.

CONCLUSION

The petition under 37 CFR 1.181 is **DISMISSED AS MOOT**. The 23 February 2009 Notification of Abandonment is hereby **VACATED**.

The declaration originally submitted on 08 March 2006 is acceptable and meets the requirements of 37 CFR 1.497(a) & (b).

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) & (c)(4) date is **08 March 2006**.


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